Minutes from the Individual Sewage Disposal System (ISDS) Task Force – Regulatory Working Group Meeting of January 31, 2001

The meeting was held in Conference Room 280, DEM Office of Water Resources, 235 Promenade Street and began at approximately 8:20.

In attendance:
Russ Chateauneuf, George Loomis, Rob Adler, Eugenia Marks, Pat Quinlan, Kendra Beaver, Alison Walsh, Tom D'Angelo, Tim Stasiunas, Joe Frisella, Tom Getz, Scott Moorehead, Ernie Panciera, Deb Knauss

Review of minutes from January 3, 2001. It was requested that the minutes be modified to reflect that the group agreed on the suitability of filing the emergency amendment. Other members of the group recalled their dissention on this and requested that the minutes reflect this. The minutes were amended as follows: *Most of those present agreed with the appropriateness of filing the emergency amendment.*

Review of minutes of January 17, 2001. The minutes of January 17, 2001 were accepted as presented.

Sites Previously Tested
Russ presented a compromise plan developed by DEM following the last meeting of the Regulatory Work Group, addressing the requirement of site evaluation and sites with previously approved field data. Regarding the "modified soil evaluation", which was proposed at the last meeting, he stated that the Department believes that site evaluation should follow the procedure in the rule. Therefore DEM should establish which sites need soil evaluation and require it there.

The following comments were made regarding the DEM proposal:

- Date of exempted data: The proposal exempts approved field data collected during and after the 1993 wet season from the requirement of soil evaluation. It was stated that per state law (23-19.5-2(c)(1) and (2)) additional information may be required for data collected between July 21, 1987 and January 1, 1992, but that approved data collected after January 1, 1992 will be considered valid. As such, it was stated that the date of exemption in the proposal must be changed to pre-1/1/92 or the law would have to be changed. There was a statement made expressing disagreement with this legal opinion.

Russ stated that 1993 was selected because the Department evaluated previous wet seasons and determined that 1993, is the first year that data is considered reliable. The 2,626 sites that have approved field data are from 1992 to the present, and the staff has indicated that few applications received are coming in with old data. (Please note the following correction: In fact, the data is from 1993 through 2000. DEM did not begin entering wet season data into the electronic database until 1993 when a new application form for wet season was put into use.)

- Concern was expressed that public health may not be adequately protected by considering critical sites as listed in the proposal. It was inquired as to whether private wells on lots of some maximum area and smaller, may be included or wells serving some minimum number of people.
- Concern was also expressed that subdivisions are not required to conduct the site evaluation if they have approved data.

Russ stated that preliminary design plans are submitted to the Department as part of subdivision approvals; these designs indicate soil data on multiple lots and the presence of wells, wetlands, and critical resource areas.

- Clarification of the critical resource areas requiring a 150-foot setback was requested.
- It was also suggested that there be a clause including municipally designated critical resource areas.

Russ stated that there has been consideration of how to incorporate municipally designated critical resource areas in the rule; one option considered is by petition.

- Include a warning that there may be more stringent requirements at the municipal level, or include a provision that designs must meet local codes and develop a form or a check sheet to facilitate compliance with municipal requirements.
- Apply more stringent design requirements in critical resource areas rather than requiring site evaluation. It was stated that municipalities may require advanced treatment in critical resource areas, but it is unlikely that they will require additional testing in these areas.
- It was expressed that we should not disregard previously determined watertables, because there is usually a factor added to it. It was also expressed that the designer (not DEM) is responsible for the system and they should be trusted.

In response to a request by the design community, Russ stated that the Department will provide examples where the watertable was found to be higher than that which was approved by the Department.

Russ stated that the issue of critical resources areas and where to require advanced treatment is still on the list of issues to be addressed by the group and that the group will return to discussion of this issue at a later date.

Both RIBA representatives and environmental advocates agreed that the proposal represents a good compromise of issues discussed at the last meeting, although RIBA representatives did not agree with it. The representatives of the building community present also indicated that they would be discussing the proposal with the RIBA Board of Directors and would get back to DEM with a position.

<u>Loading rates and corresponding leachfield size</u>

The chart which was distributed was modified from the last time it was presented. There will be no change of flow rates, loading rates and corresponding leachfield sizes for the amendment, which will be promulgated to replace the emergency amendment. As such the columns which presented proposed flows and loadings have been deleted and the flows in the current rule will be used. The new flow rates, loading rates and leachfield sizes will be addressed in the summer 2001 rule change.

Comments on the chart:

- Sizing should be based on soil texture rather than soil class for a variety of reasons:
  - Class is too gross a process
  - Soil evaluators have been trained to determine soil characteristics and morphological indicators – their expertise should be utilized to obtain more detailed information than soil class
  - If soil class is the level of information required to size a system, the soil evaluation form needs to be modified, as the more detailed information is irrelevant.
  - There is a need to be consistent with other documents that are being used; the Sand Filter Guidance Document (SFGD) is based on USDA texture, structure and consistence. (it was recommended that Table 3 in the SFGD be used to build the sizing table under consideration)

- Since the table lacks specific restrictions, it may mislead people into believing that they may install a system anywhere (i.e. lacustrine soils in which varved deposits may be present).
- The table does not identify a datum point – the SFGD specifies within 18" of the infiltrative surface.
- There is too much variation in Ice Contact deposits to load any soil identified as Ice Contact at a rate equivalent to that assigned to a 10 min/inch soil.
- It was suggested that when a method is developed for sizing on the basis of soil texture, structure and consistence, that DEM hold a mandatory workshop for soil evaluators (scheduled for more than one day and time), to present the concept and prepare them to identify and record the required information.
- It was suggested that Lodgement Till could be divided in to three subcategories to reduce the difference in the rates assigned
- It was suggested that the loading rates for commercial systems be lower than for residential systems due to the strength of commercial wastewater.

Russ stated that there had been considerable work conducted by DEM staff on a table relating sizing to soil texture, but that the soil class method was preferred by DEM field staff and was determined to work well for most sites. He also stated that Maine uses such a method and that this method is believed to work most of the time. Each method has its drawbacks.

It was decided that a subcommittee, to include DEM staff, would work on development of a table sizing leachfields on the basis of soil characteristics before the next meeting of the Regulatory Workgroup.

ISDS/Wetlands Coordination

In an effort to reduce the number of ISDS-related Wetlands applications which are non-jurisdictional, DEM would like to modify the ISDS application and review process for systems in the vicinity of a wetland. An ISDS applicant would be required to indicate the limit of disturbance for all work proposed, the location of erosion controls and location and type of wetlands on the lot or near to it. The wetland edge would be required to be flagged. There may be field verification of the site conditions by DEM Wetlands staff, as part of the ISDS application review. If it was determined that there would be no disturbance within 50-feet of the perimeter wetland (perimeter wetland includes 50 feet beyond the wetland edge), ISDS could process the application (in these cases where there is no disturbance within 100-feet of the wetland). If the limit of disturbance were determined to be within 50 feet of the perimeter wetland, a Wetlands application would be required to be submitted. No additional fee is currently proposed for this modified ISDS submission.

The only discussion relating to this topic involved the distinction between concurrent application and review of ISDS and Wetlands applications and combined application. Russ explained that it is impractical to implement a combined application process, which would involve one application for review by both programs.

Meeting adjourned at approximately 10:20

Next Meetings

Meetings will be held in Conference Room 280, DEM Office of Water Resources, 235 Promenade Street.

* Tuesday, February 13, 2001 8 AM to 10 AM
* Wednesday, February 28, 2001 8 AM to 10 AM